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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,078	07/30/2003	Donald E. Weder	8403.943	9318
30589	7590	07/06/2004		
DUNLAP, CODDING & ROGERS P.C. PO BOX 16370 OKLAHOMA CITY, OK 73113			EXAMINER GELLNER, JEFFREY L	
			ART UNIT 3643	PAPER NUMBER

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/630,078

Applicant(s)

WEDER ET AL.

Examiner

Jeffrey L. Gellner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Information Disclosure Statement*

A signed 1449 accompanies this office action.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2, 8, 10, 11, 13, and 25 are rejected under 35 U.S.C. §102(b) as being anticipated by Bakker (NL 1005489).

As to Claim 1, Bakker discloses a sleeve (Fig) having a flattened state (Fig and inherent in that entitled a “Tapered sleeve”) and openable therefrom to an opened state, comprising an outer peripheral surface (Fig.), an inner peripheral surface (inherent in Fig), a first sidewall edge, a second sidewall edge, and upper end having an upper edge, the sleeve having a tapered shape (Fig) in the flattened shape and having a single inwardly curved lower edge (below 8 in Fig) which extends from the first sidewall edge to the second sidewall edge (Fig) and wherein the lower end is substantially closed in the flattened state (“closed lower end 8” from abstract in English).

As to Claim 2, Bakker further discloses a the concave lower end having a curvilinear or rounded shape (Fig).

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As to Claim 8, Bakker further discloses the sleeve sized to surround a floral grouping (Fig).

As to Claim 10, Bakker further discloses a skirt portion (region around 2 in Fig).

As to Claim 11, Bakker further discloses a frusto-conical shape in the opened state (inherent from Fig).

As to Claim 13, Bakker further discloses the upper edge of the upper end being linear (Fig).

As to Claim 25, Bakker further discloses the lower end substantially closed (Fig).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-7, 9, 12, 14-23, 27, and 28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bakker (NL 1005489) in view of Weder et al. (EP 0791543 A2; document 5<sup>th</sup> foreign patent listed on page 7 of Applicant's 1449).

As to Claim 3, the limitations of Claim 1 are disclosed as described above. Not discloses is a gusset in the concave lower end. Weder et al., however, discloses floral sleeves with curved lower ends and gussets (Fig. 48). It would have been obvious to one of ordinary skill in the art at

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the time of the invention to modify the sleeve Bakker by adding a gusset as disclosed by Weder et al. so as to increase the holding capacity of the sleeve.

As to Claims 4 and 5, the limitations of Claim 1 are disclosed as described above. Not disclosed is the sleeve with a detaching element which are perforations. Weder et al., however, discloses a sleeve with a detaching element which are perforations (Fig. 48). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Bakker by adding a perforated detaching element as disclosed by Weder et al. so as to meet consumer demand.

As to Claim 6, Bakker as modified by Weder et al. further disclose a non-linear upper edge (Fig. 48 of Weder et al.) after detachment.

As to Claim 7, the limitations of Claim 4 are disclosed as described above. Not disclosed is a linear edge after detachment. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of Bakker as modified by Weder et al. by having a linear edge after detachment so as to meet consumer demand.

As to Claim 9, Bakker as modified by Weder et al. further disclose an upper portion adapted to support the sleeve from a support element (see Fig. 1 of Weder et al.).

As to Claim 12, the limitations of Claim 1 are disclosed as described above. Not disclosed is the upper edge of the upper end being non-linear. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of Bakker as modified by Weder et al. by having a non-linear edge of the upper end so as to meet consumer demand.

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As to Claims 14 and 17, Bakker discloses a sleeve (Fig) having a flattened state (Fig and inherent in that entitled a "Tapered sleeve") and openable therefrom to an opened state, the sleeve having an inner space in the flattened state, the sleeve comprising an outer peripheral surface (Fig), an inner peripheral surface (Fig), a first sidewall edge (Fig), a second sidewall edge (Fig), and upper end having an upper edge (Fig), the sleeve having a lower end (8 of Fig) and a tapered shape (Fig), the lower end in the flattened state having only a single inwardly curved lower edge (shown below 8 in Fig) which extends from the first sidewall edge to the second sidewall edged (Fig) and wherein the lower end is substantially closed in the flattened state (Fig). Not disclosed is a detaching element of perforations. Weder et al., however, discloses a sleeve with a detaching element which are perforations (Fig. 48). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Bakker by adding a perforated detaching element as disclosed by Weder et al. so as to meet consumer demand.

As to Claim 15, Bakker as modified by Weder et al. further disclose a the concave lower end having a curvilinear or rounded shape (Fig of Baker).

As to Claim 16, Bakker as modified by Weder et al. further disclose a floral sleeve with a gusset (Fig. 48 of Weder et al.).

As to Claim 18, Bakker as modified by Weder et al. further a non-linear upper edge (Fig. 48 of Weder et al.) after detachment.

As to Claim 19, the limitations of Claim 14 are disclosed as described above. Not disclosed is a linear edge after detachment. It would have been obvious to one of ordinary skill

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in the art at the time of the invention to further modify the sleeve of Bakker as modified by Weder et al. by having a linear edge after detachment so as to meet consumer demand.

As to Claim 20, Bakker as modified by Weder et al. further disclose the sleeve sized to surround a floral grouping (Fig of Bakker).

As to Claim 21, Bakker as modified by Weder et al. further disclose an upper portion adapted to support the sleeve from a support element (see Fig. 1 of Weder et al.).

As to Claim 22, Bakker as modified by Weder et al. further disclose a skirt portion (region around 2 in Fig of Bakker).

As to Claim 23, Bakker as modified by Weder et al. further disclose a frusto-conical shape in the opened state (inherent from Fig of Bakker).

As to Claim 27, Bakker as modified by Weder et al. further disclose a drain hole in the lower end (Weder et al. at col. 11 lines 44-46).

As to Claim 28, Bakker as modified by Weder et al. further disclose lower end substantially closed (8 of Fig of Bakker).

Claim 24 is rejected under 35 U.S.C. §103(a) as being unpatentable over Bakker (NL 1005489) in view of Baldwin (US 2,440,569).

As to Claim 24, the limitations of Claim 1 are disclosed as described above. Not disclosed is the cover with a drain hole in the lower end. Baldwin, however, discloses a drainhole in the lower end of a cover (14 of Fig. 1; col. 3 lines 21-26). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of

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Bakker by adding a drain hole in the lower end as disclosed by Baldwin so as to provide drainage so as to lower humidity around the pot.

Claim 26 is rejected under 35 U.S.C. §103(a) as being unpatentable over Bakker (NL 1005489) in view of Benoit (US 4,554,192).

As to Claim 25, the limitations of Claim 1 are disclosed as described above. Not disclosed is a pad of the sleeves. Benoit, however, discloses a making a pad of sleeves (col. 5 lines 6-15). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Bakker by making a pad as disclosed by Benoit so as to make storage and use easier and more efficient.

Claim 29 is rejected under 35 U.S.C. §103(a) as being unpatentable over Bakker (NL 1005489) in view of Weder et al. (EP 0791543 A2; document 5<sup>th</sup> foreign patent listed on page 7 of Applicant's 1449) in further view of Benoit (US 4,554,192).

As to Claim 29, the limitations of Claim 14 are disclosed as described above. Not disclosed is a pad of the sleeves. Benoit, however, discloses a making a pad of sleeves (col. 5 lines 6-15). It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of Bakker as modified by Benoit by making a pad as disclosed by Benoit so as to make storage and use easier and more efficient.



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*Response to Arguments*

Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection. Applicant has added language to the independent claim to claim a sleeve in the flattened state having a tapered shape (Remarks page 8 last two para.); and, and to claim a sleeve which has a substantially closed lower end in the flattened state (Remarks page 9 last para.). The added language adds limitations not disclosed in the prior art references. In response, new art is applied.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The

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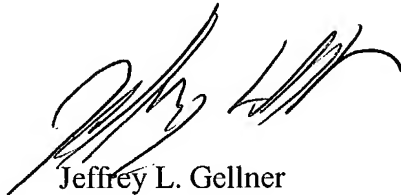
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Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The

Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.



Jeffrey L. Gellner